



SURFACE TRANSPORTATION BOARD

[Docket No. FD 36554]

Union Pacific Railroad Company—Trackage Rights Exemption—BNSF Railway Company

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR 1180.2(d)(7) for the acquisition of trackage rights over an approximately 7.8-mile rail line owned by BNSF Railway Company (BNSF) between milepost 436.5, near Eton, Mo., and milepost 444.3, near Congo, Mo. (the Line).

UP states that it originally acquired these trackage rights 1902.¹ The verified notice states that UP and BNSF have executed a new agreement that provides UP with substantially similar trackage rights and will allow operations to continue without material change.²

The transaction may be consummated on or after November 28, 2021, the effective date of the exemption (30 days after the verified notice of exemption was filed).

As a condition to this exemption, any employees affected by the acquisition of trackage rights will be protected by the conditions imposed in Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980).

¹ UP states that, because the 1902 trackage rights agreement predates passage of the Transportation Act of 1920, Pub. L. No. 66-152, 41 Stat. 456, it was not required to be submitted to the agency for authorization.

² A redacted version of the agreement was filed with UP's verified notice of exemption. UP simultaneously filed a motion for a protective order to protect the confidential and commercially sensitive information in the unredacted version of the agreement, which UP submitted under seal. That motion will be addressed in a separate decision.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by November 19, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36554, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on UP's representative, Jeremy M. Berman, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

According to UP, this action is categorically excluded from environmental review under 49 CFR 1105.6(c)(3) and from historic preservation reporting requirements under 49 CFR 1105.8(b)(3).

Board decisions and notices are available at www.stb.gov.

Decided: November 5, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Eden Besera,

Clearance Clerk.